

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Housing (Scotland) Act 1988**

**Register Of Rents Determined Under Short Assured Tenancies**

**REFERENCE NO.**

FTS/HPC/RS/19/1647

**APPLICATION RECEIVED**

20 May 2019

**ADDRESS OF PREMISES**

Flat 0/1, 5 Cartbank Grove, Muirend, Glasgow, G44 3JD

**TENANT**

Mr Iain Gow

**NAME AND ADDRESS OF LANDLORD**

Places For People  
2 Crescent Office Park  
Clarks Way  
Bath, BA2 2AF

**AGENT**

Touchstone Intelligent Property Management  
Crescent Office Park  
Clarks Way  
Bath, BA2 2AF

**RENTAL PERIOD**

Yearly

**DATE TENANCY COMMENCED**

13 August 2010

**DESCRIPTION OF PREMISES**

Ground floor flatted dwellinghouse at 0/1, 5 Cartbank Grove, Muirhead, Glasgow, G44 3JD

**SERVICES PROVIDED**

None

**TRIBUNAL MEMBERS**

**CHAIRPERSON**

**ORDINARY MEMBER (SURVEYOR)**

Ewan Miller

Robert Buchan

**PRESENT RENT**

£6,780.00

**DETERMINED RENT**

£7,380.00

**DATE OF DECISION**

13 August 2019

**EFFECTIVE DATE**

1 September 2019

E Miller

Chairperson of tribunal

Date

17/9/19

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Determination of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Section 34 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/RS/19/1647**

**Flat 0/1, 5 Cartbank Grove, Muirend, Glasgow, G44 3JD ("the Property")**

#### **The Parties:**

**PLACES FOR PEOPLE, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF ("the Landlord") Represented by Touchstone Intelligent Property Management, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF**

**MR IAIN GOW, residing at Flat 0/1, 5 Cartbank Grove, Muirend, Glasgow, G44 3JD ("the Tenant")**

#### **Tribunal Members:**

**MR E K MILLER, Chairman and Legal Member and MR R BUCHAN, Ordinary Member**

### **BACKGROUND**

#### **1. Introduction**

This is an application by the Tenant to the First-tier Tribunal (Housing and Property Chamber) ("the Tribunal") for a determination of the rent payable under Section 34 of the Housing (Scotland) Act 1988 ("the Act").

The tenancy is a short assured tenancy. The tenancy commenced on 13 August 2010 at an initial rental of £475 per calendar month (£5,700 per annum). The rental has been increased over the years and is currently set at £565 per calendar month (£6,780 per annum).

On 24 April 2019 the Landlord's agent served a formal notice on the Tenant proposing an increase with effect from June 2019 to a rent of £615 per calendar month (£7,380 per annum). The Tenant responded using the prescribed form AT4 dated 20 May 2019 objecting to the increase and applying to the Tribunal for the rent to be reviewed. The Tribunal was satisfied that it had jurisdiction to deal with the application.

## **2. The Inspection**

The Tribunal inspected the Property on the morning of 12 August 2019. The Tenant was present during the inspection. The Landlord was neither present nor represented.

The Tribunal noted that the Property was a ground floor flat in a larger block of flats. The block was relatively modern having been built around 2000. The block was located in a pleasant location, close to services and was surrounded by other similar blocks. The communal areas and grounds were well maintained and there was ample parking and bin stores for the use of residents.

The Property was accessed via a communal stairwell with security entrance and was comprised of a hallway with small storage cupboard off, a good sized lounge, two medium sized bedrooms, one with an en-suite shower room, a good sized bathroom and kitchen. The Property was double-glazed and had central heating. Overall the Property was in good condition, although the internal décor and floor coverings were tired in places. The original bathroom and kitchen fittings remained from when the Property had first been built. Whilst they were becoming dated and worn, nonetheless, they were in serviceable condition. Overall the Tribunal viewed the Property as being attractive and in a good location.

## **3. The Hearing**

Following the inspection the Tribunal held a hearing at the Glasgow Tribunal Centre, York Street, Glasgow. The Tenant was again present and represented himself. The Landlord was neither present nor represented.

The Tenant submitted that a rental of £615 was too high and could not be achieved for the Property on the open market in its current condition. He listed several comparable properties for let in the vicinity that he felt were indicative that the rental sought for the Property was unachievable.

In particular, he highlighted a two bedroom flat in Margarett Buildings nearby at £583 per calendar month. There was also a two bedroom ex-council cottage flat at £525 in Montford Avenue. He also highlighted a one bedroom flat in Holmhead Place at £395 per calendar month and two one bedroom flats in Holmlea Road at £400 and £500 respectively.

The Tenant's submission was that it was not simply a case of valuing the rental of the Property based on square footage and location. One required to take a holistic view and look at the entire circumstances surrounding the tenancy. The Tenant was strongly of the view that £615 was, as he put it, "a Rolls Royce rent". However he was of the view that he did not have a "Rolls Royce" flat. He highlighted that little material improvements had been made by the Landlord during his 10 years of occupation. The kitchen and bathroom were the original and were now dated, in his view. He highlighted what he

perceived as poor workmanship in some areas. He also highlighted that the Landlord and their agents were very poor to deal with in terms of getting work carried out. He would continually have to chase the agents and it could be several weeks before anyone responded. He gave several examples of what he perceived as poor service during his period of occupation.

In summary the Tenant was of the view that if the Property was re-let on the open market it would not achieve a rental of £615. He conceded that an increase of perhaps £20 per month to £585 would be appropriate.

The Landlord had not made any material written submissions to the Tribunal in advance of the hearing.

#### **4. The Decision**

In terms of Section 34 of the Housing (Scotland) Act 1988, the Tribunal must make a determination of the rent which, in the Tribunal's opinion, the Landlord might reasonably be expected to obtain under the short assured tenancy. In terms of sub-section (3) the Tribunal is not to make a determination unless it is satisfied that (a) there is a sufficient number of similar houses in the locality let on assured tenancies (whether short assured tenancies or not); and (b) that the rent payable under the short assured tenancy in question is significantly higher than the rent which the Landlord might reasonably be expected to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in (a) above.

On balance, having considered matters, the Tribunal was satisfied that there were a sufficient number of similar houses in the locality to allow it to make a proper assessment. However, having done so, the Tribunal was not satisfied that the rent sought by the Landlord was significantly higher than the rent which the Landlord might reasonably be expected to obtain under the tenancy, having regard to the level of rent payable under the other tenancies. Accordingly the Tribunal was required to make a non-determination and the proposed rent sought by the Landlord would stand.

A copy of the photographs taken during the course of the inspection are annexed hereto for information.

#### **5. Reasons for decision**

The Tribunal noted the comparative properties provided by the Tenant, however they found these to be of limited benefit. The one bedroom properties provided were older tenemental properties in a less attractive street and accordingly were not significantly close in nature as to be of benefit. The two bedroom properties were closer to the rental sought but again these were older properties in a poorer street and without the benefit of an en-suite, off street parking, etc. Again, therefore, they were of limited benefit to the Tribunal.

The Tribunal was, aware from its own investigations of a number of properties that had been let in the same larger development as the Property. The Tribunal noted a let of 7 Cartbank Grove which had taken place in Spring 2018 at £650 per calendar month. The Property was the same in terms of accommodation although, according to the particulars, it was freshly decorated and had new floor coverings.

The Tribunal had also noted that a block across the road from the Property had a for let sign. Following the inspection the Tribunal telephoned the owner's number on the for let board and spoke to him. He confirmed to the Tribunal that he was looking for a rental of £625 per calendar month. Again, the Property was identical in layout. The owner confirmed to the Tribunal that the bathroom and kitchen in this property were the original and therefore it was similar to the Property.

The Tribunal also noted from the internet that another property in the development (erroneously described on the internet as 6 Cartbank Grove) had been advertised at £625 per calendar month in 2018. Again, this appeared to be of similar nature and style to the Property. It was apparent from the photographs that the bathroom was also still the original one. It appeared therefore to the Tribunal that the correct market value for properties within this development, of which the Property formed part, was in the region of £625 to £650 per calendar month.

The Tribunal compared these properties to the Property in question. Whilst the Tenant was correct that there was a degree of wear and tear in his Property, nevertheless the Property was still an attractive one that would let readily. A degree of discount would require to be given to reflect some minor repairs to be carried out and fresh décor and carpeting that would undoubtedly be carried out by a landlord prior to re-let. However this would not be a significant cost and only a minor deduction against the market rental would be likely to apply if let in its current condition. The Tribunal was of the view that the Property could be let in its current condition at around £600. Whilst this was slightly lower than the rental sought by the Landlord, the Tribunal could only give a determination if it was satisfied that the rental sought by the Landlord was significantly higher than could be achieved on the open market. The difference between £600 and the rental of £615 sought was relatively minor and could not be deemed to be substantial in the view of the Tribunal.

Accordingly, taking in to account all of the information, the Tribunal considered that the rent which the Landlord might reasonably be expected to obtain under the Short Assured Tenancy was £600 per calendar month (£7,200) per annum. However, the sum sought by the Landlord of £615 per calendar month was not significantly higher than this sum and accordingly no determination was made in terms of Section 34 (Sub Section 3) of the Act. In reaching its decision the Tribunal had regard to all the evidence laid before it, the papers, the evidence obtained at the inspection and hearing and all the circumstances which required to be taken into account in terms of the Act.

The Tribunal decided that the amended rent of £615 per calendar month should take effect from 1 September 2019.

## 6. Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed

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..... Chairperson

Date

..... 17/9/11 .....

Schedule of photographs taken during the inspection of  
Flat 0/1, 5 Cartbank Grove, Muirend, Glasgow, G44 3JD



Front - Ground floor left



Street



Schedule of photographs taken during the inspection of  
Flat 0/1, 5 Cartbank Grove, Muirend, Glasgow, G44 3JD



Kitchen



Bathroom